

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 0.23 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)), THE PARTY CITING THE SUMMARY ORDER MUST FILE AND SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED. IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals  
for the Second Circuit, held at the Daniel Patrick Moynihan  
United States Courthouse, 500 Pearl Street, in the City of  
New York, on the 5th day of September, two thousand seven.

PRESENT: HON. DENNIS JACOBS,  
Chief Judge,  
HON. ROBERT A. KATZMANN,  
HON. PETER W. HALL,  
Circuit Judges.

- - - - - X  
DAVID PAUL TAYLOR,

Plaintiff-Appellant,

-v.-

06-0356-pr

FRED LEVESQUE,

Defendant-Appellee.

- - - - - X  
FOR PLAINTIFF-APPELLANT: David Paul Taylor, pro se,  
Suffield, CT.

1 **FOR DEFENDANT-APPELLEE:** Lynn D. Wittenbrink, Assistant  
2 Attorney General (Richard  
3 Blumenthal, Attorney General,  
4 Connecticut, on the brief),  
5 Hartford, Connecticut.  
6

7 **UPON DUE CONSIDERATION** of this appeal from a judgment  
8 of the United States District Court for the District of  
9 Connecticut (Fitzsimmons, M.J.), **IT IS HEREBY ORDERED,**  
10 **ADJUDGED AND DECREED** that the judgment of the district court  
11 is **AFFIRMED**.  
12

13 Plaintiff-Appellant David Paul Taylor ("Taylor")  
14 appeals from the November 14, 2005 judgment of the United  
15 States District Court for the District of Connecticut  
16 (Fitzsimmons, M.J.), which granted judgment on the pleadings  
17 to Defendant-Appellee Fred Levesque\* in Taylor's civil  
18 rights action under 42 U.S.C. § 1983.  
19

20 We assume the parties' familiarity with the facts,  
21 procedural history, and issues presented for review. In a  
22 nutshell, Taylor, who is a British citizen currently  
23 incarcerated at the MacDougall-Walker Correctional  
24 Institution in Suffield, Connecticut, complains that he was  
25 improperly classified as a security risk without any hearing  
26 on the basis of false accusations that he had planned to  
27 escape using a passport supplied by his twin brother. As a  
28 result, Taylor alleges, he cannot get a job in prison, his  
29 family has difficulty visiting him, and his chances of being  
30 transferred to a prison in the United Kingdom have been  
31 reduced. Taylor contends that the classification  
32 constitutes a violation of procedural due process under the  
33 Fourteenth Amendment.  
34

35 The grant of a motion for judgment on the pleadings  
36 under Federal Rule of Civil Procedure 12(c) is reviewed de  
37 novo using the same standard applicable to dismissals for  
38 failure to state a claim under Rule 12(b)(6). See Nicholas  
39 v. Goord, 430 F.3d 652, 657 n.8 (2d Cir. 2005).  
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\* Levesque is the Director of Classification and  
Population Management for the Connecticut Department of  
Correction.

1 To state a claim for a denial of procedural due  
2 process, a prisoner must have possessed a valid liberty  
3 interest and been denied the requisite process before a  
4 deprivation of that interest. Cruz v. Gomez, 202 F.3d 593,  
5 597 (2d Cir. 2000). To constitute a deprivation of liberty,  
6 a restraint must have imposed an "atypical and significant  
7 hardship . . . in relation to the ordinary incidents of  
8 prison life." Sandin v. Conner, 515 U.S. 472, 484 (1995).  
9 Additionally, the prisoner must establish that "the state  
10 has granted its inmates, by regulation or by statute, a  
11 protected liberty interest in remaining free from that  
12 confinement or restraint." Frazier v. Coughlin, 81 F.3d  
13 313, 317 (2d Cir. 1996).

14  
15 We agree with the district court that none of the  
16 hardships Taylor cites are atypical or significant. It is  
17 well settled that prisoners generally do not have a  
18 protected liberty interest in classifications that impact  
19 their eligibility to participate in rehabilitative programs.  
20 See Moody v. Daggett, 429 U.S. 78, 88 n.9 (1976), cited in  
21 Green v. Armstrong, No. 98-3707, 1999 WL 642910, at \*1 (2d  
22 Cir. Aug. 20, 1999); see also Pugliese v. Nelson, 617 F.2d  
23 916, 923 (2d Cir. 1980).

24  
25 Moreover, Connecticut has not granted inmates, by  
26 regulation or statute, a protected interest in their  
27 security classification; the matter is committed to the  
28 discretion of the Commissioner of Corrections. See Wheway  
29 v. Warden, 576 A.2d 494, 501 (Conn. 1990); Santiago v.  
30 Comm'r of Corr., 667 A.2d 304, 307 (Conn. App. Ct. 1995)  
31 (holding that a prisoner challenging his designation as a  
32 security risk has "no property or liberty interest in prison  
33 employment, increased recreation[, ] . . . educational  
34 courses. . . . [or] access to visitors").

35  
36 Taylor has failed to show that his classification  
37 impacted any particular entitlement under Connecticut's  
38 statutes or regulations. The provisions Taylor cites  
39 pertain to the procedures applicable to disciplinary  
40 violations, not security classifications. The hardships of  
41 which Taylor complains are incident to his classification as  
42 a security risk; they are not punishments for a disciplinary  
43 violation. And Taylor admits that he has been charged with  
44 no such violation.

45  
46 Taylor's contention that the classification impacted  
47 his chances for a transfer to a different prison is

1     unavailing; prisoners generally have no due process right to  
2     challenge their assignment to a particular facility, see  
3     Prins v. Coughlin, 76 F.3d 504, 507 (2d Cir. 1996) (citing  
4     Meachum v. Fano, 427 U.S. 215, 225 (1976)), and therefore  
5     Taylor has no due process right to challenge a  
6     classification that might thwart his desire to transfer to  
7     another facility.

8  
9     Taylor also contends that the district court erred by  
10    denying him leave to amend. Generally, leave to amend  
11    should be granted at least once if a liberal reading of a  
12    pro se complaint gives any indication that valid claim might  
13    be stated. See Thompson v. Carter, 284 F.3d 411, 416 (2d  
14    Cir. 2002). But here, the district court reviewed the  
15    substance of the amendments Taylor proposed, and we agree  
16    with the district court that those amendments fail to cure  
17    the key defect in Taylor's allegations: he has been deprived  
18    of no protected liberty interest.

19  
20    We have reviewed the remainder of Taylor's contentions  
21    and find them to be without merit. For the reasons set  
22    forth above, the judgment of the district court is hereby  
23    **AFFIRMED.**

24  
25  
26                   FOR THE COURT:  
27                   CATHERINE O'HAGAN WOLFE, CLERK  
28                   By:  
29  
30  
31  
32                   \_\_\_\_\_